

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

JAI BHOLE, INC.	§	
d/b/a America's Best Value Inn	§	
	§	
V.	§	CIVIL ACTION NO. G-10-522
	§	
THE EMPLOYERS FIRE INSURANCE	§	
COMPANY	§	

ORDER

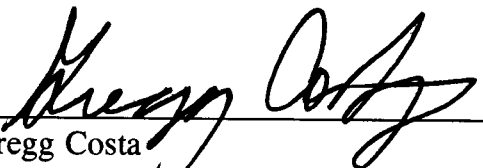
On October 17, 2013, Magistrate Judge Froeschner denied the Defendant, The Employers Fire Insurance Company, permission to reurge its previously denied Motion for Summary Judgment after he determined that Employers' "new" evidence would not change this Court's earlier decision and would require a new round of briefing and a waste of judicial resources. Employers has filed objections to that ruling.

This Court has now reviewed this matter pursuant to 28 U.S.C. § 636(b)(1)(C) and has concluded that the evidence before the Court at the time Employers' Motion for Summary Judgment was denied was sufficient to allow the Court to properly address the merits of Employers' alleged accord and satisfaction defense. The additional evidence would not establish that defense as a matter of law. This Court, therefore, agrees with Magistrate Judge Froeschner's assessment and **FINDS** that he did not clearly err or act contrary to law in denying Employers the right to reurge its Motion for Summary

Judgment. Cf. Calpetco 1981 v. Marshall Exploration, Inc., 989 F.2d 1408, 1414 -15 (5th Cir. 1993)

Accordingly, it is **ORDERED** that the "Motion for Leave to File Summary Judgment Motion"(Instrument no. 64) of Defendant, The Employers Fire Insurance Company, is **DENIED**.

DONE at Galveston, Texas, this 6th day of November, 2013.



Gregg Costa
United States District Judge